

### **REMARKS**

Applicants have carefully reviewed the Final Office Action mailed January 17, 2007, prior to preparing this response. Currently claims 1-25 are pending in the application, wherein claims 1-7 and 9-21 have been rejected and claims 8 and 22-25 have been withdrawn from consideration consequent an Examiner-induced requirement for restriction. Claims 22-25 have been cancelled with this paper. Favorable consideration of the following remarks is respectfully requested.

Claims 1-7 stand rejected under 35 U.S.C. §102(b) as being anticipated by Rammler, U.S. Patent No. 5,327,891. Applicants respectfully traverse this rejection, asserting Rammler fails to teach each claim limitation. In particular, claim 1 recites “removable support means for providing column support to the elongate shaft.” In examining claim limitations evoking a mean-plus-function evaluation, a two-step process must be conducted. First, the element found in the prior art must perform the same function specified in the claim. Second, the structure of the prior art element must be found to perform the function in substantially the same way while producing substantially the same results as the corresponding element disclosed in the specification. See M.P.E.P. §§2181-2184.

In the Office Action, it appears as though element 24 (Figure 1) and element 60 (Figure 3) of the catheter disclosed in Rammler are being equated to the claimed removable support means for providing column support to the elongate shaft. In view of the requirements of showing equivalence of a means-plus-function limitation, Applicants respectfully disagree with this suggestion of equivalence. In order to show equivalence, it must first be demonstrated that the elements 24 and 60 of the catheter as taught in Rammler perform the same function as the claimed limitation. Applicants respectfully assert that the elements 24 and 60 of the catheter of Rammler do not meet the functional requirements of a “removable support means for providing column support to the elongate shaft.”

The elements 24 and 60 taught in Rammler are disclosed as a track, ancillary to the catheter, which “is provided for guiding the catheter.” See Rammler, at column 2, lines 1-2. Rammler describes the track 24/60 as being “easily introduced into the vessel and may serve as a guide for a vane which fits into a groove in the tract [sic].” See Rammler, at column 2, lines 28-31. At no point does Rammler suggest the elements 24 and 60 perform the function of a removable support means for providing column support to the elongate shaft.

As element 24 and/or element 60 of Rammler does not perform the same function as the claim element, it is not necessary to reach the issue of whether element 24 and/or element 60 of Rammler is an equivalent structure which performs the function in substantially the same way while producing substantially the same results as the corresponding element disclosed in Applicants' specification.

For at least the reasons stated above, the teachings of Rammler at least fail to teach "removable support means for providing column support to the elongate shaft" as currently claimed. Claim 1, as well as claims 2-7 which depend from claim 1 and include additional significant limitations, are believed to be in condition for allowance. Withdrawal of the rejection is respectfully requested.

Claims 9, 10, 14, 15 and 19-21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rammler, U.S. Patent No. 5,327,891, in view of Stevens-Wright et al., U.S. Patent No. 5,715,817. Applicants respectfully traverse this rejection.

Although not expressly indicated in the Office Action, Applicants assume the Examiner is equating the vanes 22/32 disclosed in Rammler with the claimed plurality of support tracks disposed on the external surface of the elongate shaft. If this assumption is incorrect, Applicants respectfully request clarification as to which portion of Rammler is relied upon for teaching the claimed plurality of support tracks. See M.P.E.P. §707.07(f).

In formulating the rejection the Examiner states, and the Applicants agree, Rammler fails to disclose the device as claimed, including a plurality of support ribs that are configured to be removably disposed over at least a portion of the support tracks. Elements 62 of Figures 10 and 11 of Stevens-Wright are relied upon as teaching the claimed plurality of support ribs that are configured to be removably disposed over at least a portion of the support tracks. Applicants respectfully disagree with this assessment.

There is no motivation or suggestion in the prior art to include the reinforcement members 62 disclosed in Stevens-Wright et al. with the vanes 22/32 disclosed in Rammler in a way that would disclose the interrelationship between the plurality of support tracks and the plurality of support ribs as currently claimed. It appears as though the Examiner is simply gathering various prior art references without considering the claimed limitations as a whole. See M.P.E.P. §2141.02. The Manual of Patent Examining Procedure advises that "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." See

M.P.E.P. §2143.03, quoting *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

In evaluating the claims, the Examiner may not disregard the part-to-part relationships of elements set forth in the claims that give the claims their meaning. See *Lindemann Maschinenfabrik GmbH v. American Hoist and Derrick Company*, 221 USPQ 481, at 486 (Fed. Cir. 1984). Applicants assert the Examiner appears to have disregarded limitations of claim 9 which describe the interrelationship between the plurality of support tracks and the plurality of support ribs, as currently claimed.

As currently claimed, the plurality of support tracks are disposed on the external surface of the elongate shaft, and the plurality of support ribs are configured to be removably disposed over at least a portion of the plurality of support tracks.

The reinforcement members 62, which the Examiner attempts to equate to the claimed plurality of support ribs, are positioned within the reinforcement lumens 64 of the catheter. See Stevens-Wright et al., at column 4, lines 36-49. Thus, the reinforcement members 62 are not disposed over any other structure. In view of the teachings of Stevens-Wright et al., one of skill in the art would understand that the reinforcement members 62 would be located within a lumen of the catheter. Furthermore, the reinforcement members 62 of Stevens-Wright et al. are taught as “anchored to the tubular section 60. ...Were the distal section 62a not anchored to the tubular section 60, the reinforcement member 62 would tend to float within the reinforcement lumen 64, either above or below the neutral axis.” Stevens-Wright et al. at column 5, lines 1-9. Thus, the reinforcement members 62 are not disclosed as being removable components of the catheter. One of skill in the art, in view of the teachings of Stevens-Wright et al., would understand that the reinforcement members 62 must be anchored to the catheter to insure proper functionality.

Thus, there is no teaching or suggestion in the prior art which would motivate one of skill in the art to arrive at a catheter construction as currently claimed. Even if one of skill in the art were to incorporate the reinforcement members 62 as taught by Stevens-Wright et al. with the catheter of Rammler, without the benefit of the present application one would not arrive at the presented claimed invention.

For at least the reasons stated above, a *prima facie* case of obviousness has not been established with the cited references. Claim 9 is believed to be in condition for allowance. As claims 10, 14, 15 and 19-21 depend from claim 9 and include significant additional limitations,

these claims are also believed to be in condition for allowance. Withdrawal of the rejection is respectfully requested.

Claims 11-13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rammler, U.S. Patent No. 5,327,891, in view of Stevens-Wright et al., U.S. Patent No. 5,715,817, and further in view of Beckman et al., U.S. Patent No. 5,957,979. Applicants respectfully traverse this rejection.

As an initial matter, in analyzing the obviousness of the subject matter at issue and the Examiner's reliance on a reference as a basis for rejection of an applicant's invention, "the reference must be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." M.P.E.P. §2141.01(a), quoting *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992).

The present invention generally relates to a medical catheter incorporating a supporting structure. Dissimilarly, Beckman is directed to a specific configuration of a prosthetic knee implant "of the type commonly referred to as a mobile bearing knee." Beckman, at column 1, lines 5-6. One of skill in the art would not look to the teachings of a prosthetic knee implant in an attempt to modify a catheter. As Beckman is directed to non-analogous art, it is improper to rely on the teachings of Beckman in attempting to formulate a *prima facie* case of obviousness in the present application. See M.P.E.P. §2141.01(a).

Notwithstanding the fact that the teachings of Beckman are non-analogous with those of the present claims, a *prima facie* case has not been established with the cited combination of references. As indicated above, the cited combination of Rammler and Stevens-Wright et al. fails to teach that which is claimed in claim 9, from which claims 11-13 depend from. Beckman fails to remedy the noted shortcomings of Rammler and Stevens-Wright et al. Thus, the cited combination fails to disclose each and every claimed limitation requisite in establishing a *prima facie* case of obviousness. Withdrawal of the rejection of claims 11-13 is respectfully requested.

Claims 16 and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rammler, U.S. Patent No. 5,327,891, in view of Stevens-Wright et al., U.S. Patent No. 5,715,817, and further in view of MacDonald et al., U.S. Patent No. 6,210,396. Applicants respectfully traverse this rejection.

As indicated above, the cited combination of Rammler and Stevens-Wright et al. fails to teach that which is claimed in claim 9, from which claims 16 and 17 depend from. MacDonald

et al. fail to remedy the noted shortcomings of Rammler and Stevens-Wright et al. Thus, the cited combination fails to disclose each and every claimed limitation requisite in establishing a *prima facie* case of obviousness. Withdrawal of the rejection of claims 16 and 17 is respectfully requested.

Claim 18 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Rammler, U.S. Patent No. 5,327,891, in view of Stevens-Wright et al., U.S. Patent No. 5,715,817, and further in view of Jang, U.S. Patent No. 6,730,037. Applicants respectfully traverse this rejection.

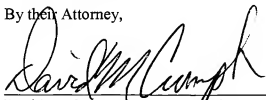
As indicated above, the cited combination of Rammler and Stevens-Wright et al. fails to teach that which is claimed in claim 9, from which claim 18 depends from. Jang fails to remedy the noted shortcomings of Rammler and Stevens-Wright et al. Thus, the cited combination fails to disclose each and every claimed limitation requisite in establishing a *prima facie* case of obviousness. Withdrawal of the rejection of claim 18 is respectfully requested.

Reexamination and reconsideration are respectfully requested. It is submitted that all pending claims are currently in condition for allowance. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at 612.677.9050.

Respectfully submitted,

Stephen Griffin et al.

By their Attorney,



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